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February 4, 2003

Federal Communications Commission
Office of Secretary

VIA HAND DELIVERY

Chairman Michael Powell
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Line Sharing and Broadband Competition
Ex Parte Presentation: CC Dkt. No.s 01-338, 98-147, 96-98

Dear Chairman Powell:

On behalf of EarthLink and hundreds of thousands of broadband DSL subscribers, we urge you in the Commission's upcoming decision in the UNE Triennial Review to retain Line Sharing as an unbundled network element (UNE). We further ask you to consider the disruption to hundreds of thousands of DSL service subscribers that would result if line sharing were to be restructured or eliminated.

EarthLink has been offering broadband services since 1998 and is today one of the few independent ISPs offering broadband service throughout the nation. We offer these services over a variety of platforms. However, DSL is our major broadband platform and Covad, the last remaining major DSL CLEC, is one of our largest DSL suppliers. Line sharing allows competitive DSL suppliers like Covad to offer DSL transmission services in many markets where the ILEC would otherwise be the only other source for DSL lines.

Line sharing reduces barriers to competition and discourages monopoly pricing and discrimination by the ILECs. It also allows for product offerings such as symmetric DSL that the ILECs are reluctant to provide in competition with their higher-priced T-1 services. Without line sharing, broadband consumers will face higher prices and *diminishing* quality of service.

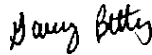
Eliminating line sharing would force competitive LECs to purchase an entire loop, while incumbent LECs would continue to enjoy the economy and efficiency of line sharing. Similarly, compromising line sharing by preserving it in name but allowing incumbent LECs to set monopoly prices for it would undermine the profitability of competitive LECs such as Covad, and in turn, of independent ISPs such as EarthLink.

The end result would again be higher prices and diminished service quality for broadband end users.

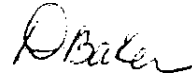
Finally, the Commission cannot consider elimination of line sharing without closely examining the disruption that such a decision would cause for hundreds of thousands of existing DSL subscribers. There exists no industry-accepted practice of migrating DSL customers from one underlying provider to another without an interruption in service. For that matter, the ILECs would no doubt use such interruption in service to "poach" that small segment of the retail DSL market that they do not already control. It would be a disservice to DSL consumers if this were the result of the Commission's actions.

Pursuant to the FCC's *ex parte* rules, six copies of this letter will be provided today to the Secretaries' office to be included in the above-referenced dockets.

Sincerely,



Garv Bettv
President and CEO
EarthLink, Inc.



Dave Baker
Vice President
EarthLink, Inc.

cc:

Commissioner Kathleen Abernathy
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Kevin Martin
Marsha MacBride
Chris Libertelli
Matthew Brill
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Jordan Goldstein
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